



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

James Anderson et al.

Serial No.: 10/711,150

Filed: August 27, 2004

For: MACHINING SYSTEM WITH INTEGRATED CHIP HOPPER

Attorney Docket No.: 81101894 / FMC 1772 PUS

Group Art Unit: 3722

Examiner: Eric Andrew Gates

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action mailed April 19, 2006, Applicants request review of the legal and factual basis of the rejections prior to the filing of an appeal brief. A notice of appeal is being filed together with this request for review.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8 (FIRST CLASS MAIL)

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

July 14, 2006
Date of Deposit

Timothy J. Marsh
Name of Person Signing

Timothy J. Marsh
Signature

Remarks

Claims 1-8 and 17-20 are pending in this application. Claims 9-16 were previously withdrawn. Claims 1, 3, 5 and 17-18 stand rejected under § 102(b) as being anticipated by U.S. Patent No. 4,889,290, issued to Koffsky et al. (hereinafter "Koffsky"). Claims 2, 6 and 19 stand rejected under § 103(a) as being unpatentable over Koffsky in view of U.S. Patent No. 6,112,504 issued to McGregor et al. (hereinafter "McGregor"). Claims 4 and 20 stand rejected under § 103(a) as being unpatentable over Koffsky in view of U.S. Patent Application Publication No. 2003/0131571 issued to Demarco (hereinafter "Demarco"). Claims 7 and 8 stand rejected under § 103(a) as being unpatentable over Koffsky in view of McGregor and further in view of Demarco. The drawings were objected to under 37 C.F.R. 1.84(p)(5) for failure to include reference signals 152, 154 and 194. An amendment after final was filed on June 12, 2006 to obviate the drawing rejection. The amendment after final was entered via the office communication mailed June 30, 2006. Of the non-withdrawn pending claims, claims 1 and 17 are the only independent claims.

Claim 1 recites a machining system having a machining envelope. The machining system includes a housing defining at least a portion of the machining envelope, a hopper having a top surface defining an opening, and a seal disposed between the housing and the top surface. The hopper is configured to receive particulates when positioned below the machining envelope.

A *prima facie* case has not been established for the rejection of claim 1. Applicants have pointed out the deficiency of Koffsky at page 7 line 15 through page 8 line 4 of the Amendment filed January 25, 2006. In general, Applicants note that Koffsky simply does not recite a seal as claimed in claim 1 of the present application. Clearly, one having ordinary skill in the art would not consider the apparatus of Koffsky to show a seal that is disposed between a housing and a top surface of a hopper. As such, a *prima facie* case has not been established for the rejection of independent claim 1.

Claim 17 recites a machining system that includes a housing and a chip hopper. The housing has an upper portion defining a machining envelope, a lower portion disposed proximate the upper portion, the lower portion having an access port, and a mating portion disposed proximate the upper and lower portions defining a first aperture, the mating portion having a bottom surface. The chip hopper is adapted to be inserted through the access port into the lower portion. The chip hopper includes a top surface defining a second aperture and a seal disposed on the top surface. The seal is adapted to engage the bottom surface of the mating portion to prevent particulates from exiting the housing.

A *prima facie* case has not been established for the rejection of claim 17. In general, Koffsky simply does not disclose a machining system as claimed in claim 17 of the present application. Applicants have pointed out the deficiency of Koffsky at page 8 lines 13-26 of the Amendment filed January 25, 2006. For the reasons presented in the Amendment filed January 25, 2006, a *prima facie* case has not been established for the rejection of independent claim 17.

For the reasons given above, Applicants respectfully request that the panel members review the rejections on this application, and find that the application is not in condition for appeal.

Respectfully submitted,

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